

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CHRISTINA FLORES,	:	
	:	DOCKET NO.: 23 CV 22894-EP-JBC
Plaintiffs,	:	
	:	CIVIL ACTION
vs.	:	
	:	SECOND AMENDED COMPLAINT
PARADISE TRIPS. LLC, JAMES JOHNS,	:	AND JURY DEMAND
RUSH ENTERPRISES, INC., RUSH TRUCK	:	
LEASING INC., PACCAR INC., PACCAR	:	
LEASING CORPORATION, ESTHER	:	
KUBROCK DUBOSQUE, OEG BUILDING	:	
MATERIALS, INC., MILESTONE METALS,	:	
INC., JOHN DOE 1 – 10 (fictitious Name),	:	
ABC CORP. 1 – 10 (fictitious Name)	:	
	:	
Defendants.	:	

Plaintiff, by and through his attorneys, The Law Offices of Joseph Monaco, P.C., by way of Complaint against the Defendants, states as follows:

PARTIES

1. Plaintiff CHRISTINA FLORES is an adult individual and a citizen of the State of Pennsylvania, who presently resides at 7108 Tulip Street, Philadelphia, Pennsylvania 19135.

2. Defendant PARADISE TRIPS, LLC, upon information and belief, is a Texas limited liability corporation with a principal place of business located at 125 Glass Mountain Road, Saint Helena, California.

3. Defendant JAMES JOHNS is an adult individual and upon information and belief is a citizen of the State of Tennessee, with an address of 1830 Edwards Branch Road, Flag Pond, TN.

4. Defendant RUSH ENTERPRISES, INC., upon information and belief, is a

Texas corporation with a principal place of business located at 555 IH-35 South Suite 500, New Braunfels, Texas.

5. Defendant RUSH TRUCK LEASING INC., upon information and belief, is a Texas corporation with a principal place of business located at 6300 N Loop E Fwy, Houston Texas.

6. Defendant PACCAR INC, upon information and belief, is a Delaware corporation with a principal place of business located at 777 106th Avenue N.E., Bellevue, Washington.

7. Defendant PACCAR LEASING CORPORATION, upon information and belief, is a Texas corporation with a principal place of business located at 777 106th Avenue N.E., Bellevue, Washington.

8. Defendant, ESTHER KUBROCK DUBOSQUE, is an adult individual and upon information and belief is a citizen of the State of California, with an address of 125 Glass Mountain Road, Saint Helena, California.

9. Defendant, OEG BUILDING MATERIALS, INC., upon information and belief, is a New York corporation with a principal place of business located at 6001 Bordentown Avenue, Sayreville, New Jersey.

10. Defendant, MILESTONE METALS, INC., upon information and belief, is a Texas corporation with a principal place of business located at 113 W. Lorino Street, Houston, Texas.

JURISDICTION AND VENUE

11. Plaintiff seeks an amount in controversy in excess of \$75,000.00, exclusive

of interest and costs.

12. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 because there is complete diversity of citizenship between the parties, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Plaintiff's injuries/damages include, *inter alia*, decompressive laminectomy at L5; bilateral lateral fusion at L5 to S1; posterior lumbar interbody fusion at L5 to S1; placement of intervertebral cages at L5-S1; placement of pedicle screw rod fixation at L5-S1; with multiple bone grafts.

13. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b)(2) as a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

FIRST COUNT
NEGLIGENT OPERATION

14. On or about March 29, 2022, Plaintiff, CHRISTINA FLORES, was seated in the driver's seat in a certain Honda motor vehicle that was lawfully parked on Bergen Turnpike in the Township of North Bergen, County of Hudson and State of New Jersey.

15. On or about March 29, 2022, Defendant, JAMES JOHNS, was the operator of a certain motor vehicle, owned by Defendant, RUSH ENTERPRISES, INC. and/or RUSH TRUCK LEASING INC. and/or PACCAR INC. and/or PACCAR LEASING CORPORATION, which motor vehicle was connected to a trailer, that was traveling on Bergen Turnpike in the Township of North Bergen, County of Hudson and State of New Jersey.

16. On or about March 29, 2022, at the above described location, Defendant James Johns did operated the subject motor vehicle and connected trailer in a negligent, reckless and/or

dangerous manner and did cause a collision with the plaintiff's parked vehicle.

17. On or about March 29, 2022, the trailer that was connected to the above-described motor vehicle was owned by Defendant, ESTHER KUBROCK DUBOSQUE.

18. At all times relevant herein, ESTHER KUBROCK DUBOSQUE had an ownership interest and/or was a member of defendant PARADISE TRIPS, LLC.

19. On or about March 29, 2022, RUSH ENTERPRISES, INC. and/or RUSH TRUCK LEASING INC. and/or PACCAR INC. and/or PACCAR LEASING CORPORATION, leased said vehicle to the employer of JAMES JOHNS, defendant PARADISE TRIPS, LLC.

20. On or about March 29, 2022, ESTHER KUBROCK DUBOSQUE, leased and/or otherwise allowed the trailer owned by her individually, that was attached to the vehicle, to be used by the employer of JAMES JOHNS, defendant PARADISE TRIPS, LLC.

21. At all times relevant JAMES JOHNS operated said vehicle and trailer in the scope and course of his employment with PARADISE TRIPS, LLC.

22. Defendants, RUSH ENTERPRISES, INC. and/or RUSH TRUCK LEASING INC. and/or PACCAR INC. and/or PACCAR LEASING CORPORATION and/or PARADISE TRIPS, and/or LLC JAMES JOHNS and/or ESTHER KUBROCK DUBOSQUE, did so negligently and carelessly own, operate and/or maintain their aforesaid motor vehicles and trailer, so as to cause same to collide with the vehicle in which Plaintiff, CHRISTINA FLORES was lawfully parked.

23. As a direct and proximate result of the negligence of Defendants, RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC and/or JAMES JOHNS and/or ESTHER

KUBROCK DUBOSQUE, as aforesaid, Plaintiff, CHRISTINA FLORES, was caused to sustain and did sustain serious and permanent personal injuries requiring the care and treatment of physicians, hospitalization and medication and has been and will in the future continue to be hampered in her daily routine.

WHEREFORE, Plaintiff, CHRISTINA FLORES, demands judgment against Defendants, RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC, JAMES JOHNS and ESTHER KUBROCK DUBOSQUE, jointly, severally or, in the alternative, in the amount of his damages, together with interest and costs of suit.

SECOND COUNT
VICARIOUS LIABILITY

24. Plaintiff repeats all prior allegations as if set forth verbatim herein.

25. At all times hereinafter mentioned, defendants RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10 were motor carriers, hidden motor carriers, container owners, trailer owners, receivers, shippers, brokers, legally responsible by contract and/or regulations and/or applicable law for the trailer and any container being transported or to be transported by defendants RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC, JAMES JOHNS and ESTHER KUBROCK DUBOSQUE as described in the FIRST COUNT.

26. At all times defendant JAMES JOHNS was an agent, and/or statutory employee of defendants RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10.

27. At all times defendant PARADISE TRIPS, LLC was an agent of defendant RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10.

28. At all times, defendants RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10 were responsible for all actions taken by defendants JAMES JOHNS and PARADISE TRIPS, LLC, including compliance or failure to comply with the Federal Motor Carrier Safety Regulations and New Jersey motor vehicle statutes as codified in title 39.

29. Defendants RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10 are vicariously liable for defendant JAMES JOHNS.

30. Defendants RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC.,

PACCAR INC., PACCAR LEASING CORPORATION, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10 are vicariously liable for defendant PARADISE TRIPS, LLC.

31. As a direct and proximate result of the negligence of Defendants, RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10 as aforesaid, Plaintiff, CHRISTINA FLORES, was caused to sustain and did sustain serious and permanent personal injuries requiring the care and treatment of physicians, hospitalization and medication and has been and will in the future continue to be hampered in her daily routine.

WHEREFORE, Plaintiff, CHRISTINA FLORES, demands judgment against Defendants, RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10 jointly, severally or, in the alternative, in the amount of his damages, together with interest and costs of suit.

THIRD COUNT
NEGLIGENT ACTIONS/NEGLIGENT SELECTION

32. Plaintiff repeats all prior allegations as if set forth verbatim herein.

33. At all times hereinafter mentioned, defendants RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION,

PARADISE TRIPS, LLC, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10 were negligent in their actions with regard to the subject transportation, including but not limited to negligent entrustment, negligent maintenance, route selection, selection of a motor carrier, hiring/selecting an independent contractor that was not competent, hiring/selecting a motor carrier who was not competent, hiring/selecting a motor carrier whose trailer that was attached to the tractor at the time of colliding with Plaintiff's vehicle was unregistered, allowing an unregistered truck and/or trailer to operate on the roads, allowing a fraudulent license plate to be attached to the trailer while operating on the roads, selection and screening of drivers including driver qualification requirements under the Federal Motor Carrier Safety Regulations, and conspicuity and marking of the subject container.

34. As a direct and proximate result of the negligence of Defendants, RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC, ESTHER KUBROCK DUBOSQUE, OEG BUILDING MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10 as aforesaid, Plaintiff, CHRISTINA FLORES, was caused to sustain and did sustain serious and permanent personal injuries requiring the care and treatment of physicians, hospitalization and medication and has been and will in the future continue to be hampered in her daily routine.

WHEREFORE, Plaintiff, CHRISTINA FLORES, demands judgment against Defendants, RUSH ENTERPRISES, INC., RUSH TRUCK LEASING INC., PACCAR INC., PACCAR LEASING CORPORATION, PARADISE TRIPS, LLC, OEG BUILDING

MATERIALS, INC., MILESTONE METALS, INC., ABC CORPS 1-10 and JOHN DOE 1-10 jointly, severally or, in the alternative, in the amount of his damages, together with interest and costs of suit.

Plaintiff demands a trial by jury on all counts.

Dated: Oradell, New Jersey
March 14, 2024

Respectfully submitted;

THE LAW OFFICES OF
JOSEPH MONACO

By: Joseph D. Monaco J.D.

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